

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MYRTLE V. MCGEE,

Plaintiff,

v.

Case Number 05-10272-BC
Honorable David M. Lawson

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, DENYING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT, REVERSING FINDINGS OF
COMMISSIONER, AND REMANDING MATTER TO
COMMISSION FOR AN AWARD OF BENEFITS**

This matter is before the Court on a report issued on June 29, 2006 by Magistrate Judge Charles E. Binder, operating under an order of reference, recommending that the Court grant the plaintiff's motion for summary judgment, deny the defendant's motion for summary judgment, reverse the findings of the Commissioner, and remand the matter to the Commission for an award of benefits. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, the defendant did not file any objections. The defendant's failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt

17] is **ADOPTED**, the plaintiff's motion for summary judgment [dkt # 11] is **GRANTED**, the defendant's motion for summary judgment [dkt # 15] is **DENIED**, the findings of the Commissioner are **REVERSED**, and the matter is **REMANDED** to the Commission for an award of benefits.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: July 20, 2006

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on July 20, 2006.

s/Tracy A. Jacobs
TRACY A. JACOBS